



OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

July 15, 2002

The Honorable Jeff Flake  
U.S. House of Representatives  
512 Cannon House Office Building  
Washington, D.C. 20515

Dear Congressman Flake:

Thank you for your letter of May 23, 2002 concerning the proposed transaction involving EchoStar Communications Corporation and General Motors Corporation's subsidiary, Hughes Electronics Corporation, which includes its satellite television unit, DIRECTV. I appreciate learning your views on this important transaction, including your concerns about the efficient and flexible use of the radio spectrum, and want to assure you that the proposed merger will undergo a careful and thorough review by the Commission.

I agree with you strongly that the Commission needs to revise its methods for allocating spectrum to allow for greater flexibility. For that reason, I announced recently the formation of a cross-bureau and multi-disciplinary Spectrum Policy Task Force to assist the Commission in identifying and evaluating changes in spectrum policy that will increase the public benefits derived from the use of the radio spectrum. The Task Force will provide specific recommendations to the Commission for ways in which to evolve the current "command and control" approach to spectrum policy into a more integrated, market-oriented approach that provides greater regulatory certainty, while minimizing regulatory intervention. In addition, the Task Force will assist the Commission in addressing various spectrum issues, including, interference protection, spectral efficiency, effective public safety communications, and implications of international spectrum policies. I am enclosing a copy of the Commission's News Release for your information.

Under the Communications Act, the Commission must approve any license transfers related to the proposed EchoStar-Hughes transaction. In order to expedite this process, I established a special team of Commission staff to coordinate and oversee the Commission's review of the EchoStar-Hughes transaction. On December 3, 2001, the Commission received a consolidated application requesting consent to the transfer of control of licenses and authorizations to the new EchoStar entity.

After an initial review of the consolidated *Transfer of Control Application* submitted by EchoStar and Hughes Electronics, the Commission issued a request to the Applicants for additional information and clarification of certain matters. Among other things, the Commission asked the Applicants to provide additional information concerning the post-merger corporate structure, the effect of the Vivendi and PanAmSat transactions, the nature of current services offered by the Applicants and their competitors in the video programming, broadband,

equipment, and fixed satellite service markets, and the technical efficiencies that may result from the proposed merger. The Applicants are in the process of supplying the Commission with documents and information in response to this request.

More recently, EchoStar and Hughes filed an application with the Commission to launch and operate NEW ECHOSTAR 1, a direct broadcast satellite designed to deploy spot-beam technology. The EchoStar/Hughes satellite proposal, conditioned upon the Commission's approval of the *Transfer of Control Application*, is intended to provide additional local broadcast channel programming capacity. Moreover, the Applicants indicate that when NEW ECHOSTAR 1 is combined and integrated with the other satellite assets of a merged EchoStar-Hughes entity, the merged entity will be in a position to serve all 210 Designated Market Areas ("DMAs") in the United States, including Alaska and Hawaii, with local broadcast service.

The issues raised and the claims made by the Applicants in the NEW ECHOSTAR 1 *Application* are directly related to a number of matters under consideration in the Commission's review of the Applicants' *Transfer of Control Application*. Thus, the Commission's Media Bureau determined that the NEW ECHOSTAR 1 *Application*, together with the changes in the Applicants' position with respect to their ability and intention to provide local-into-local broadcast service in all 210 DMAs, constitutes a substantial amendment to the Applicants' proposed transaction. Accordingly, on April 19, 2002, the Bureau issued a *Public Notice* seeking comment from interested parties on the NEW ECHOSTAR 1 *Application*. The comment period on the NEW ECHOSTAR 1 *Application* closed on June 4, 2002.

In order to accommodate the pleading cycle established for the NEW ECHOSTAR 1 *Application*, the Commission continued to stop the clock on the 180-day review period that governs the EchoStar/Hughes proceeding. The timeclock will remain stopped until the Applicants comply in full with the Commission's outstanding data requests. Please be assured that the Commission will consider your views carefully, along with the complete record as it develops during its review of the proposed EchoStar-Hughes transaction.

I appreciate your taking the time to share your views on this important matter. Please do not hesitate to contact me if you have any further questions or concerns.

Sincerely

A handwritten signature in black ink, appearing to read "Mike Powell", with a large, sweeping flourish extending to the right.

Michael K. Powell  
Chairman

Enclosure